

EXHIBIT 4

C.A. No. 4:-17-CV-01749;
Alfred Dewayne Brown v. City of Houston, et al.

REPORTER'S RECORD

Volume 32 of 41 Volumes

Trial Court No. 1035159

Court of Appeals No. AP-75,294

THE STATE OF TEXAS : IN THE DISTRICT COURT OF
VS. : HARRIS COUNTY, T E X A S
ALFRED DeWAYNE BROWN : 351ST JUDICIAL DISTRICT

JURY TRIAL

On the 14th day of October, 2005, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable Mark Kent Ellis, Judge presiding, held in Houston, Harris County, Texas.

Proceedings reported by computerized stenotype machine.

TONI GOUBAUD, CSR NO. 5774
Official Court Reporter - 351st Judicial District
1201 Franklin, 14th Floor
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1 (Proceedings continued:)

2 THE COURT: 192 is admitted.

3 (State's Exhibit No. 192 offered and
4 admitted.)

5 DIRECT EXAMINATION CONTINUED

6 BY MR. RIZZO:

7 Q. I'm going to start at the top with the
8 first entry, but I'm going to try and zoom it in.

9 The first entry that you're looking
10 at, what does it say.

11 A. 9:39:01.

12 Q. And when it -- if I may.

13 It says front door. What does that
14 column refer to.

15 A. That's telling us that the front door
16 that goes into the lobby area opened up at that
17 time.

18 Q. And then where it says "closed," that's
19 just when it was opened and when it was closed?

20 A. Correct.

21 Q. Okay. So at 9:39:01, is that the first
22 time that day, based upon the records, that the
23 door opened?

24 A. Correct.

25 Q. So that would be the time when Mrs. Jones

1 and her assailant presumably could have walked in
2 at that point?

3 A. Correct.

4 Q. There's no entries before?

5 A. No.

6 Q. That front door stayed open for how many
7 seconds then?

8 A. Five seconds.

9 Q. Then the next entry shows mantrap keypad
10 and it shows 9:39:33. And what does that mean?

11 A. That's when she put her code in to open
12 up the mantrap door.

13 Q. The next entry shows outer mantrap door
14 at 9:39:34. What does that mean?

15 A. That's actually when the door opened.

16 Q. And when it opened, it closed and that
17 would be the outer mantrap door?

18 A. Correct.

19 Q. And that is -- has to be at a time after
20 the keypad was --

21 A. Correct.

22 Q. The code was put in?

23 A. Correct.

24 Q. In terms of it closing, it closed a few
25 seconds later; is that right?

1 A. Correct.

2 Q. Now, in between when the door closed and
3 when the next entry, the inner mantrap door
4 opened, a person would have been inside the
5 mantrap itself?

6 A. Correct.

7 Q. A person or persons at that point?

8 A. Correct.

9 Q. The inner mantrap door shows what time
10 it's opening?

11 A. 9:39:41 seconds.

12 Q. And then it closed at what time?

13 A. 9:39:45 seconds.

14 Q. At this point Mrs. Jones and her
15 assailant then would be in the back area?

16 A. Correct.

17 Q. The next entry shows the alarm turned off
18 at what time?

19 A. 9:40:09 seconds.

20 Q. And how was the alarm turned off again?

21 A. Putting her code in and hitting the off
22 button.

23 Q. Now, when we get to the next entry, it
24 says "front door." What does that mean?

25 A. That means that somebody came in through

1 the front door again at 9:42:10 seconds.

2 Q. The person that came -- based upon these
3 records, the person that then came into the store
4 at the 9:42 and ten seconds, they came in at a
5 time when Mrs. Jones and her assailant were in the
6 back; is that correct?

7 A. Correct.

8 Q. And that front door then closed at what
9 time?

10 A. 9:42:14 seconds.

11 Q. Now, at this point the next entry shows
12 what?

13 A. The safe being accessed, which means she
14 put her code in to open the safe at 9:42:13
15 seconds.

16 Q. Now, the question I have is from 9:42 and
17 13 seconds on since the safe was accessed, could
18 you describe again for the jury what that means in
19 terms of the outer inner mantrap doors?

20 A. Once she put the safe access code in that
21 locked down any door that comes into the booth,
22 which is the outer mantrap door and the inner
23 mantrap door. No one will be able to enter in
24 through that outer mantrap door.

25 Q. Now, the next entry shows a 9:42:18

1 opening and a 9:42:43 closing. Does anybody --
2 and this entry -- can you tell from this entry if
3 somebody left the back area and walked into the
4 front?

5 A. At 9:42:18 someone opened the inner
6 mantrap door. And at that point they were in the
7 mantrap and at 9:42 --

8 Q. Let me get -- before you get to that,
9 though, the next entry, I want to try and find out
10 in terms of this entry at 9:42 --

11 A. 18.

12 Q. -- 18 -- at 9:42:18, the inner mantrap
13 door, meaning back in the back, opened up and then
14 it closed some 20 seconds or so, 30 seconds later?

15 A. Uh-huh.

16 Q. Did -- does this show whether the person
17 that opened that inner mantrap door completed and
18 went into the lobby?

19 A. No, they didn't go in the lobby. They
20 just opened the mantrap door.

21 Q. Okay. So some person opened the mantrap
22 door after -- directly after someone, the second
23 individual came into the front door?

24 A. Correct.

25 Q. All right. In between the time that this

1 inner mantrap door opened and closed, did
2 something occur based upon the records?

3 A. Yeah, she pushed the wireless holdup
4 button.

5 Q. And that would be where it says "wireless
6 HU pushed"?

7 A. Correct.

8 Q. And that would have been at what time?

9 A. 9:42:28 seconds.

10 Q. And then sometime after that, and I'm
11 saying just less than 15 seconds or approximately
12 15 seconds later, the inner mantrap door closed?

13 A. Correct.

14 Q. Could this be consistent based upon the
15 records themselves with a person -- another -- the
16 second assailant coming into the lobby, the first
17 assailant going into the inner mantrap door,
18 opening it, and during this period of time,
19 Mrs. Jones hitting the alarm?

20 A. Correct.

21 Q. And that person that was in the back does
22 not for some reason go all the way into the lobby
23 or allow the person to come into the back from the
24 lobby; is that right?

25 A. Correct.

1 Q. Closes the door and then would be in the
2 back with Mrs. Jones again?

3 A. Correct.

4 Q. Now, the next entry was at what time?

5 A. 9:42:53 seconds.

6 Q. And let me direct your attention to the
7 closing of the door and that shows what time?

8 A. 9:43:19 seconds.

9 Q. Now, that one there is darkened somewhat.
10 Is there a reason that that is darkened for -- or
11 highlighted for our benefit?

12 A. Basically because it shows that it stayed
13 open when the next thing happened.

14 Q. Okay. Let me stop you for a second.
15 What stayed open?

16 A. The inner mantrap door.

17 Q. So the inner mantrap door then is being
18 held open --

19 A. Correct.

20 Q. -- for a minute and a half before it was
21 closed?

22 What occurs while that inner mantrap
23 door was held open? What happened next.

24 A. The outer mantrap door was opened at
25 9:43:11 seconds.

1 Q. Okay. And then the outer mantrap door
2 closed at what time?

3 A. 9:43:16 seconds.

4 Q. And then after that outer mantrap door
5 closed again, what happens next?

6 A. The inner mantrap closes at 9:43:19
7 seconds.

8 Q. So, if there was -- if the second
9 assailant was trying -- is it consistent with the
10 second assailant, who is then allowed to go in,
11 but the person in the back had to hold open the
12 inner mantrap door for a minute and a half, then
13 get the outer mantrap door open to allow them into
14 the mantrap and then after that, then they would
15 close the other door?

16 A. Correct.

17 Q. At this point is it consistent with two
18 assailants now in the back with Mrs. Jones?

19 A. Correct.

20 Q. Now, going to the next entry showing
21 "front door" and what time does it show an entry
22 there?

23 A. 9:44:07 seconds.

24 Q. And that would be then approximately --
25 almost a minute later, a third assailant comes in?

1 A. Correct.

2 Q. And that door closes at what time?

3 A. 9:44:10 seconds.

4 Q. Let me direct your attention to, then,
5 the next entry. So at this point there -- the
6 records are consistent with two assailants in the
7 back with Mrs. Jones?

8 A. Correct.

9 Q. And a third assailant now in the lobby?

10 A. Correct.

11 Q. The next entry says "inner mantrap door."

12 A. Someone opens the inner mantrap door.

13 Q. Now, it shows it closing at 9:44:44, but
14 before it closed, did something else occur?

15 A. The outer mantrap door was opened by
16 someone else.

17 Q. Okay. And was the -- was the inner
18 mantrap door also held open again?

19 A. Correct.

20 Q. And it was held open during the period of
21 time when the outer mantrap door was opened?

22 A. Correct.

23 Q. And I can't see if I'm past on that
24 screen?

25 THE COURT: You've got one more.

1 MR. RIZZO: Thank you, Judge.

2 Q. (By Mr. Rizzo) Now, the outer mantrap
3 then door, that opened at 9:44:43 and after that,
4 did the inner mantrap door then close?

5 A. Correct.

6 Q. And then the outer mantrap door?

7 A. Correct.

8 Q. So, at this point are the records now
9 consistent with three assailants having gone in
10 and in the back with Mrs. Jones?

11 A. Correct.

12 Q. Both inner mantrap door closed and outer
13 mantrap door closed?

14 A. Correct.

15 Q. Also front door is closed?

16 A. Correct.

17 Q. But not locked?

18 A. Correct.

19 Q. Unless it was done manually by
20 Mrs. Jones?

21 A. Correct.

22 Q. The next entry shows the inner mantrap
23 door at 9:44:51 opening?

24 A. Correct.

25 Q. And closing at 9:45:03; is that correct?

1 A. Correct.

2 Q. During the time that this occurred, did
3 something else occur that was after -- and, I
4 guess, I should move this up.

5 A. Okay. At 9:45:16 the front door opened
6 and that was after they had opened the inner
7 mantrap door and closed it.

8 Q. Okay. Let me ask you this: If a person
9 had been -- before this -- this other person --
10 assume for a minute we're at the point that three
11 people are now in the back with Mrs. Jones?

12 A. Uh-huh.

13 Q. If another person then comes into the
14 lobby at this point, presumably a police
15 officer --

16 A. Okay.

17 Q. -- are the records consistent with at
18 some point prior to the police officer coming in,
19 somebody for some reason goes into the inner --
20 goes into the inner mantrap door, opens it and
21 then closes it?

22 A. Correct.

23 Q. And that could have been hearing
24 something or for no reason?

25 A. Correct.

1 Q. Now, looking at the next entry at
2 9:45:29, what happens?

3 A. The inner mantrap door opens again at
4 9:45:29 and then it closes at 9:45:32.

5 Q. So somebody in the back, after presumably
6 the police officer then comes in, somebody pushes
7 the inner mantrap door and then turns around and
8 backs out of it?

9 A. Correct.

10 Q. All right. The next thing that happens
11 is what?

12 A. The front door opens at 9:45:34 seconds.

13 Q. And this would be just two seconds after
14 that inner mantrap door closed again?

15 A. Correct.

16 Q. The front door opened again?

17 A. Correct.

18 Q. And if I -- you have a blank next to it.
19 Is there any reason why it doesn't show that door
20 closing, that front door?

21 A. The door stayed open.

22 Q. It never closed again?

23 A. No.

24 Q. So, are these records consistent -- and
25 I'm referring to as we've gotten to this point --

1 with the officer having gone in and then seeing
2 something, stepping back out and then going in and
3 propping the door open with his body and sometime
4 shortly after that dying and holding the door open
5 with his foot?

6 A. Yes.

7 Q. Now, the next entry shows an inner
8 mantrap door opening at what time?

9 A. At 9:45:34.

10 Q. And it's closing at what time?

11 A. Ten seconds later at 9:45:42, about eight
12 seconds later.

13 Q. Before it closed -- and I'm talking about
14 that inner mantrap door -- did the outer mantrap
15 door open?

16 A. Yes, it did.

17 Q. So -- and how quickly after that inner
18 mantrap door opened did the outer mantrap door
19 open?

20 A. One second.

21 Q. And how many feet approximately is it
22 between the inner mantrap door and the outer
23 mantrap door? I'll step up close to you and you
24 can help me. Is it (indicating) --

25 A. About right there (indicating).

1 Q. Okay. So approximately this distance?

2 MR. RIZZO: For purposes of the
3 record approximately eight to ten feet or so.

4 Q. (By Mr. Rizzo) During that -- during
5 that time, it only took one second for whatever
6 person went through from the inner mantrap door
7 and through the outer man -- opening the outer
8 mantrap door?

9 A. Correct.

10 Q. Presumably somebody rushing out, assuming
11 that there was a police officer outside there?

12 A. Correct.

13 Q. And the records are consistent with that?

14 A. Yes.

15 Q. At -- and after that person opened the
16 outer mantrap door, did then the inner mantrap
17 door close or did that outer mantrap door close
18 first?

19 A. The outer mantrap door closed before the
20 inner mantrap door.

21 Q. Then the outer mantrap -- the inner
22 mantrap door closed; is that right?

23 A. They were both opened at the same time
24 for about six seconds.

25 Q. Okay. And then they were both closed

1 again?

2 A. Correct.

3 Q. And assume for a moment that there is now
4 only two assailants and Mrs. Jones in the back and
5 the door -- the front door is now propped open by
6 presumably a police officer or his body. We can't
7 tell when that person actually exits the lobby,
8 can we?

9 A. No.

10 Q. But we can tell the approximate time of
11 the first person rushing out when the police
12 officer goes -- going through from the inner
13 mantrap door to the outer mantrap door
14 approximately ten feet, eight to ten feet in one
15 second?

16 A. Correct.

17 Q. Okay. Now, the next entry shows what?

18 A. The next one is the outer mantrap door
19 opens at -- again at 9:45:42 seconds.

20 Q. And then closes again in how long?

21 A. The outer mantrap door closed at 9:45:46
22 seconds.

23 Q. Can you help us understand this
24 particular entry in terms of it doesn't show an
25 inner mantrap door opening before the outer

1 mantrap door. So how did that occur?

2 A. Basically, the door -- the inner mantrap
3 door was held open until after the second person
4 went out through the outer mantrap door. Once
5 that person went out, then the inner mantrap door
6 was closed, so they both was closed basically at
7 the same time.

8 Q. Okay. So that would be consistent
9 with -- after the first assailant goes out towards
10 the officer, are these records then consistent
11 with then a second assailant, presumably with
12 Mrs. Jones, goes into the mantrap and then the
13 doors close?

14 A. Correct.

15 Q. And then the next thing that occurs is
16 the inner mantrap door opens again; is that right?

17 A. Correct.

18 Q. And that would be at 9:45:50?

19 A. Correct.

20 Q. After the inner mantrap door opened,
21 approximately three seconds later, what occurs?

22 A. The outer mantrap door opened.

23 Q. And then what happened after that?

24 A. The inner mantrap door closed two seconds
25 later.

1 Q. And then what time did the outer mantrap
2 door close?

3 A. About six seconds later, 9:45:59 seconds.

4 Q. So presumably at this point all three
5 people -- all three assailants and Mrs. Jones
6 would have at least entered into the lobby area?

7 A. Correct.

8 Q. We can't tell if they left the store at
9 this point?

10 A. Correct.

11 Q. Do we have anymore entries of any details
12 at this point?

13 A. Basically the outer mantrap door opens up
14 at 10:05:18, and that's basically after everything
15 had been happening. One of the supervisors or
16 somebody came on and they was able to open the
17 outer mantrap door. And they could only open that
18 door at that point in time with the key.

19 MR. RIZZO: Pass the witness.

20 CROSS-EXAMINATION

21 BY MS. MULDROW:

22 Q. Good afternoon, ma'am?

23 A. Hi.

24 Q. Now, all you know and you can testify to
25 is when the doors opened and shut; is that